To: State Association of County Auditors

From: Matthew Siverling
Legislative Representative

Subject: Final 2015 Legislative Activity Report

This is the final Legislative Activity Report for the 2015 Legislative Session on Association legislative matters of interest.

INTRODUCTION

The Legislature adjourned shortly after midnight on the last day of Session on September 11, 2015 and is scheduled to reconvene the 2016 Regular Legislative Session on January 4, 2016. Under the Constitution, the Governor had until October 11, 2015 to sign or veto bills passed by the Legislature in the regular session. 2015 was the first year of the two-year Legislative Session. This means that the Legislature will return in January to address unresolved issues from this year, as well as begin a new Session of fresh legislation.

During this meeting, the Association will be presented with background materials on all measures of interest that were discussed or acted upon by the State Association of County Auditors Legislative Committee in the 2015 Legislative Session. These bills have either been held in the Legislature, vetoed, or signed into law by the Governor.

Sponsored Bills

The SACA Legislative Committee did not choose to sponsor any proposals for introduction in the 2015 Legislative Session.

Other Issues

Assembly Bill 113: Governor's RDA "Simplification" Trailer Bill

When the Governor unveiled his May Revise Budget Plan, we were presented with a proposal to further amend the policy related to the redevelopment wind-down to "simplify" and "streamline" the final stages of the process.

Over the prior several months, the Association had met with the Department of Finance to present a number of implementation issues from the county perspective. SACA made the case to address the "auditor staffing issue" that had been a source of concern for the counties. The proposed mock-up that had been shared with us contained troubling language that would have mandated that the auditor-controller in each count act as "staff" to the oversight boards. This would present a number of issues included conflict of interest, independence issues, and general resource issues to provide "staff." The Department agreed and included language in the Revise to address it. A middle ground was to that would designate the auditor as a "pass through" for the contracting of the staffing responsibility. The work would fall on another county organ, or potentially a city or successor agency mutually agreed-upon by the auditor and Finance.

Along with the RDA piece, the Governor included a laundry list of much desired "local government finance" issues, including San Benito's ERAF resolution, solutions for recently incorporated cities in Riverside County, and ending negative bailout in about a dozen Counties. These unrelated property tax/local government issues were included as "sweeteners" to garner much-needed support for the bill. Many Members were torn on the issue due to negative impacts on the cities within their district limits. The cities stood to lose millions in interest on loans they'd made to former RDA's due to a cap on the rate included in AB 113.

When the Budget Proposal was ultimately approved, this measure (which was amended into a trailer bill as Assembly Bill 113) was left unresolved and unheard. The League of Cities was successful in convincing enough Assembly Democrats to either vote "no" or not vote, and the Speaker elected to park the measure and avoid the conflict altogether.

On Friday, July 10th, the Daily file was released and showed that Assembly Bill 113 was scheduled to be heard the following Monday, July 13th in the Senate Budget and Fiscal Review Committee.

Since the measure was set for a hearing on a Monday and didn't appear on the file until Friday, you can assume that the Administration was confident that they had the votes counted correctly and were attempting to jam the measure through first thing Monday, not giving the League a chance to lobby it. Unfortunately, the Governor underestimated the cities, who lobbied a critical number of the Committee in the districts over the weekend and swung the vote the other way. **Since the vote was not known, the Committee pulled the bill from hearing at the last minute.**

The measure has AGAIN been set for hearing before the Budget and Fiscal Review Committee, this time on Thursday, August 27th. Yet again, the cities were able to secure enough opposition to prevent the hearing from taking place.

On Thursday, September 10th, we received a call from the Speaker's office indicating that there may be some action prior to the end of the Session the following day. The staff hinted at a potential "gut and amend" and urged the importance of beginning to secure possible votes within the next 24 hours.

By the middle of the day, it was clear that the Speaker intended to make a full-blown push for the RDA bill. They reached out, again, to the proponents of the measure (AB 113) and asked each of us to make sure to discuss the benefits with our respective delegation. By the end of the day, the news had leaked out to the cities who opposed the bill and the fight was on.

September 11th was the last day of Session. The morning bills went across the Desk and included a new bill that had not been seen before. **Senate Bill 107** (Committee on Budget) was largely the same as Assembly Bill 113, with some key differences. The measure allowed for a longer time to conclude activity until 2018 for the wind down process, as well as some expansion of the definition of a loan to contain "real property." Even with these changes, the cities continued to fiercely oppose due to the hundreds of millions of dollars in potential loss due to a cap on the interest rates applied to prior loans.

Despite the furious opposition launched by the League of Cities, the measure was moved through the Assembly Floor, the Senate Budget Committee and lastly the Senate Floor in the course of a single day. Each step was met with stiff resistance and urging of "no" votes from dozens of Members, but the bill continued to gain the necessary votes and secured passage with about an hour to spare in the Session.

The Governor quickly signed the measure into law and, since it is a Budget bill, it took effect immediately. He signed the measure concurrently in a ceremony with Assembly Bill 2 (Alejo), which takes important steps to reestablish a tool for tax increment financing for blighted areas.

(Final Status: Chapter #325, '15)

<u>Assembly Bill 2 (Alejo); Community revitalization authority</u>

This bill authorizes local governments to create Community Revitalization and Investment Authorities to use tax increment revenue to improve the infrastructure, assist businesses, and support affordable housing in disadvantaged communities.

This bill permits an Authority to carry out a community revitalization plan within a CRIA. At least 80% of the land calculated by census tracts or census block groups within the area must be characterized by both of the following conditions:

a) Annual median household income is less than 80% of the statewide annual median income, and

b) Three of the following conditions:

Non-seasonal unemployment is at least 3% higher than statewide median unemployment.

Crime rates are 5% higher than statewide median crime rates.

Deteriorated or inadequate infrastructure such as streets, sidewalks, water supply, sewer treatment or processing, and parks.

Deteriorated commercial or residential structures.

The bill had been referred to the Senate Appropriations Suspense file. There is relatively small fiscal impact due to the fact that schools are excluded from the bill. For locals, there are potentially huge diversions of tax revenues. As reported before, this measure had been vetoed several times, so many were curious if the Governor may have a change of heart on this policy.

The Governor did take positive action and opted to sign this bill into law. In a statement, the author said "Today, we celebrate a major victory for our state's most disadvantaged communities with the Governor's signature of Assembly Bill 2," said Assembly member Alejo. "For three years I have work diligently with the Governor's office and Assembly leadership to create policy that will serve as a new effective tool to help and uplift disadvantaged communities throughout the state. I want to thank the Governor for his leadership and thoughtful consideration on redevelopment. This is the right thing for jobs, economic development and affordable housing in California."

(Final Status: Chapter, #319, '15)

Assembly Bill 237 (Daly); Parcel Tax Notification

This bill would have required a local agency, within one week following a legislative body's vote to place a proposed parcel tax on the ballot, to provide specified notice to all property owners affected by the tax.

According to the author, "Currently, despite the fact that non-resident property owners pay parcel taxes approved at the local level, they typically do not receive notice of a pending vote, nor are they entitled to vote on whether any proposed parcel tax should be adopted. It's the voters of the local jurisdiction who determine whether a proposed parcel tax be imposed on property owners. If a property owner is also a resident of the local jurisdiction, they will be informed of a pending parcel tax vote when they receive their ballot pamphlet. However, if a property owner resides elsewhere, they will not be notified that a vote on a proposed parcel tax is looming."

This bill seeks to ensure that all property owners are notified of a pending parcel tax vote, whether or not they are entitled to vote on the measure.

The measure was held in Appropriations Committee.

(Final Status: Held in Appropriations)

<u>Assembly Bill 313 (Atkins) Enhanced infrastructure financing districts</u>

This bill clarifies procedures for replacing dwelling units that are removed or destroyed within an Enhanced Infrastructure Financing District (EIFD) and makes other technical changes to EIFD law.

According to the author, this bill provides the clarity needed relating to replacement housing, provides that the EIFD is a separate legal structure, and ensures that when local governments utilize EIFDs, the administrative and implementation requirements are clear. Moreover, this bill will ensure that any residents that are displaced by work done in an EIFD will receive adequate support and that any units lost will be replaced by a similar type of unit and available to residents of the same income levels. This bill will also allow special districts to be considered affected taxing entities and participate in the EIFD process if they contribute other financial resources towards a project, if they do not have the ability to contribute property.

This measure did not receive a "no" vote. It was passed by both Houses and signed into law by the Governor.

(Final Status: Chapter #320, '15)

<u>Assembly Bill 341 (Achadjian) League of Cities Financial Transaction Proposal</u>

This bill, sponsored by the League of Cities, proposed to tinker with some of the existing due dates for financial transaction reports and required reports on "compensation" that they provide to the State Controller's Office. The language extends the due date of financial transaction reports from 110 to 210 days from the end of the fiscal year; and would link the required information on compensation to the due date for W2's for the IRS.

Their rationale was that the final audits on financial transactions typically are not completed in time for the required submittal to the SCO, which sets up the possibility that some of the information uncovered in an audit would not be included in the SCO's publically posted reports.

AB 341 offers later deadlines for reports, which shall contain "*underlying data from audited financial statements prepared in accordance with generally accepted accounting principles*, ***if this data is available***."

The measure has already cleared the process and was signed into law on July 2, 2015.

(Final Status: Chapter #37, '15)

<u>Assembly Bill 783 (Daly); Orange County Independent Auditor</u>

This bill would require, in any county with both an elected auditor-controller and a population exceeding 3,000,000 people, that the auditor-controller, and not the board of supervisors, examine and audit, or cause to be audited, the financial accounts and records of all officers having responsibility for the care, management, collection, or disbursement of county money, as described above. The bill would require this audit to be filed with the board of supervisors. The bill would require, in any county with both an elected auditor-controller and a population exceeding 3,000,000 people, that the authority of the board of supervisors to supervise the official conduct of county officers not be construed to affect the independent auditing and accounting functions of the auditor-controller and would prohibit the board of supervisors from obstructing his or her auditing and accounting functions.

This bill would also require a county auditor or auditor-controller also to be the chief auditor of the county. The bill would grant the auditor or auditor-controller, as part of its supervisory powers, the authority to audit, rather than review, departmental and countywide internal controls. The bill would require, in reference to the duties of auditors that the term "county auditor" include certain county offices that have been consolidated. The bill would prescribe requirements for the head of a county auditing unit. The bill would prohibit a board of supervisors from creating or operating a separate auditing unit outside of the county auditor, except if the separate auditing unit was established before 1981, and would prohibit the board from transferring any auditing unit away from the county auditor. By increasing the duties of local officials in a county with the above-described characteristics, this bill would impose a state-mandated local program.

In discussing this measure with the Author, it is clear that the intent is to narrowly craft this bill to affect only one county in this state, Orange County. The author has a personal issue with the position created in his district and is attempting to legislate the position away. He attempted to include this identical provision in the State Budget, but it was removed in transit to the Governor and not signed. He has now "gutted and amended" this bill to accomplish his goal.

The bill has been hotly debated but has cleared the committee process. It has reached the Floor, but has been moved to the "inactive file" for the time being. It is technically still active.

We were informed by Orange County that the position had been addressed internally and that the bill was no longer necessary.

(Status: Held on Inactive File)

Assembly Bill 851 (Mayes); Disincorporation Process

As discussions of potential disincorporations continue, AB 851 attempts to proactively address problems with the disincorporation process. The statutes prescribing the disincorporation process have not been significantly updated since the inception of LAFCOs in 1963. Since then, LAFCOs have had decades of experience with boundary changes. AB 851 applies this experience in order to rationalize the disincorporation process.

AB 851 ensures that the full effects of disincorporation are identified and understood before voters have to make a decision by (1) requiring a more detailed plan for services that is able to make provisions for discontinuing services, and (2) ensuring that the financial condition of the city is fully evaluated prior to LAFCO approval of the disincorporation. In addition, AB 851 brings the disincorporation procedure into full compliance with the mandates of Propositions 13 and 218. Under existing law, the intended procedure for dispensing with debt and unfunded liabilities requires counties to levy a tax without voter approval. As a result, the current process is not in compliance with Propositions 13 and 218. This could result in the county at large being responsible for the debts and unfunded liabilities of a city that has disincorporated. This bill does not encourage disincorporations; in fact, by ensuring that the full effects are known up front, it may discourage disincorporations and encourage cities to pursue other means to address their financial challenges."

Seventeen cities have disincorporated in California's history, but only two cities that have disincorporated since the creation of LAFCOs in 1963. The City of Cabazon, located in Riverside County, was disincorporated in 1973, and went through the process contained in LAFCO law. The Town of Hornitos, located in Mariposa County, was disincorporated by statute in 1972.

The legislative committee has discussed this measure during the course of the previous meetings and identified some issues that may need to be addressed. Los Angeles County was working directly with CSAC on addressing some of their specific concerns. In the meantime, this measure cleared the committee process and Floor process, as well. It did not receive a "no" vote.

We approached the Author, who is now the newly elected minority leader in the Assembly, and requested a "cleanup bill" to be introduced next year for continued discussion on this subject. He agreed, and offered to carry the bill. With the passage of SB 107 and the relief provided for a city in his district (Jurupa Valley), the "disincorporation issue" may cool down. But, it is critical to clean up the Code to ensure that future threats are able to be handled and administered by local property tax administrators.

(Final Status: Chapter #304, '15)

SCA 5 (Hancock); Assembly Bill 1040 (Ting)/SB 259 (Bates); Prop 13 Amends

Two Democratic Senators introduced an SCA with sweeping amendments to Proposition 13 with the stated intent to "provide tools so that local governments can raise more revenue from commercial and industrial properties." They say they introduced the bill because commercial property is rarely reassessed due to loopholes that prevent that trigger. This is a loophole that only business can exploit. The measure would allow for regular reassessments of offices, factories and other buildings, ensuring that they are taxed at closer to current market value. Currently they're reassessed only when there's a change in ownership.

The adjustments to Prop 13 would not apply to residences or agricultural property, and there would be new tax breaks to help small businesses. If approved by the Legislature, the measure would be placed on the ballot in November 2016.

The authors say the change could raise $9 billion for schools and local governments, helping to "reduce classroom sizes, hire more cops and patch potholes."

The measure would require a two-thirds vote in the Legislature, which means it would need at least a handful of Republican votes.

Assembly member Ting's bill seeks to reform the system by bringing together business and labor groups and hashing out a new definition for change in ownership. Ting said he doesn't know what that definition will be: he hopes to find the "sweet spot" on a compromise.

The bill is an alternative to Senate Bill 259 from Sen. Patricia Bates, which would define change in ownership as at least a 90 percent transfer of ownership interests. Another similar pending bill, Senate Constitutional Amendment 5, would revise commercial property taxes following a reassessment of value, not just after a change in ownership.

Neither of these bills has been heard in a Committee. Both have been referred to the Senate Governance and Finance Committee. We will stay tuned to determine if a hearing is scheduled next year.

The Governor has come out publically and indicated that he will not support this effort. When he was governor before in 1978, Brown campaigned against Proposition 13. But he embraced it when the measure passed, and he has resisted efforts to alter it in recent years. He described this effort as a "difficult situation that is best avoided".

(Status: Held in Committee)

<u>Senate Bill 272 (Hertzberg)</u> California PRA: local agencies: inventory

This measure is the first, and likely not the last, of attempts to amend new mandates into the California Public Records Act since the passage of Proposition 42 in 2014. Prop 42 places all of the existing requirements of the CPRA into the State Constitution, and also specifies that the future amendments/mandates added to the CPRA that "further the purposes of the Act" are not reimbursable mandates.

This bill would mandate the creation of a "catalog of information technology systems" that would need to be created and compiled by local government agencies and then posted on the Website of that agency for availability by the public. The measure was opposed by CSAC, the League of Cities, CSDA, RCRC and UCC.

The local government associations had been successful in amending out many of the issues with the bill, including language related to security issues, fortifying existing exemptions, and strengthening existing protections related to data vs. records. Remaining issues for the coalition included the inclusion of the vendor name and other specific exemptions that are requested including 911 system information.

Ultimately, the Governor opted to sign the bill. We can expect this to be the first step in a series of bills aimed at making information accessible, uniform and interchangeable between agencies.

(Final Status: Chapter #)

<u>Senate Bill 331 (Mendoza) Public contracts: local agencies: negotiations</u>

This bill requires local agencies that have adopted a Civic Openness in Negotiation (COIN) ordinance for their labor contracts to use a similar process to evaluate, negotiate, and approve goods or services contracts valued at $50,000 or more in the following areas: accounting, financing, hardware and software maintenance, healthcare, human resources, human services, information technology, telecommunications, janitorial maintenance, legal services, lobbying, marketing, office equipment maintenance, passenger vehicle maintenance, property leasing, public relations, public safety, social services, transportation, or waste removal. This bill is sponsored by the American Federation of State, County and Municipal Employees, AFL-CIO, and the Orange County Employees Association.

Several local governments have recently approved COIN ordinances in a stated attempt to increase public awareness and involvement in their labor contract negotiations. The City of Costa Mesa was the first jurisdiction to adopt a COIN ordinance, driven in part by its unfunded pension obligations. **Orange County**, the cities of Fullerton and Beverly Hills, and the East Bay Municipal Utility District (East Bay MUD) also have COIN ordinances in place.

A COIN ordinance usually requires the local government to do several things in the course of its labor contract negotiations, including:

a) Hiring an independent negotiator;

b) Obtaining an independent analysis of the costs of contract proposals;

c) Requiring public disclosure, within 24 hours, of offers and counter-offers made during negotiations;

d) Disclosing communications between elected local government officials and representatives of recognized employee organizations; and,

e) Disclosing a proposed contract before it is placed on an agenda for approval by a local legislative body.

Proponents of COIN ordinances argue that these requirements are necessary to provide opportunities for the public to be informed about labor contract negotiations before they are approved by their elected officials.

Opponents of COIN ordinances argue that these ordinances unfairly focus only on labor contracts, while failing to extend similar provisions to local governments' contract negotiations for goods and services provided by private third-parties.

As of today, Orange County is the only county who has moved forward with a COIN ordinance.

"The Orange County Board of Supervisors, in opposition, states, "SB 331 imposes far greater restrictions on the Board's ability to conduct its business than what is required of collective bargaining under COIN, the most egregious of which would prohibit approval of any contracts for no less than sixty days. This proposed state mandate on a local government would essentially stifle the Board's primary responsibility to fund critical contracts that keep county operations functioning…The mandates proposed in

SB 331 will only lead to increased costs due to delays in the contracting process and unreasonable administrative burdens. Most importantly, this bill punishes two groups: the people who work here, and the people relying on the timely provision of County services. While transparency is a worthy policy goal, the size, scope and structure of this bill demonstrates that it is more about retribution than it is a sweeping policy aimed at transparency and openness."

Despite the opposition, the measure was approved and signed into law.

(Final Status: Chapter #714, ’15)

<u>Senate Bill 480 (Pan); Heavy Machinery Tax</u>

The Association has, once again, joined the California Assessors Association to oppose this bill (last year’s AB 2114),), which would create a state tax to be imposed on the renting of heavy equipment; replacing the personal property taxes that are currently assessed. The measure would reimburse local agencies for their lost personal property tax revenue out of the Educational Revenue Augmentation Fund (ERAF).

The State Association of County Auditors has determined that this bill would trigger increased workload for both auditors and county assessors. SB 480 would initiate additional exceptions, complexities and unnecessary layers to the tax process.

The bill would mandate that the auditor shifts the “qualified heavy equipment reimbursement amount” from ERAF to the county, cities and special districts. Not only is this another “warping” of the integrity of the AB 8 and ERAF processes, but the bill does not specify many details that would be needed. For example:

- SB 480 does not define how or when the Auditor would be notified of the qualified heavy equipment reimbursement amount.

- It states the Auditor is to “Increase the total amount of ad valorem property tax revenue that is otherwise required to be allocated among the county and each city and special district in the county by the qualified heavy equipment reimbursement amount. The qualified heavy equipment reimbursement amount shall be allocated among the county, cities, and special districts in proportion to the amounts of ad valorem property tax revenue otherwise allocated among those local agencies.” The measure does not specify how the county auditor is to obtain this information.

- It states the Auditor is to “Decrease the total amount of ad valorem property tax revenue that is otherwise required to be allocated to the county’s ERAF by the qualified heavy equipment reimbursement amount.” SB 480 does not specify how county auditors are to allocate that to the two different ERAF pots (K-12 & Supplemental pot and Community College pot), which is critical.

The analysis of this procedure shows that the State (through loss to ERAF and the collection of an unknown new tax) is at the most risk of losing in this deal. Further, while the sponsors claim that the process is “revenue neutral” for locals, the removal of this equipment from the tax base will ultimately result in a loss to taxing entities.

The Senate Appropriations Committee agreed with our concerns and held the bill for fiscal reasons.

(Final Status: Held in Senate Appropriations)

Senate Bill 481 (Hueso) Independent auditors

This bill prohibits local agency employees who work on internal audits from reporting to, or being directly overseen by, a local agency’s general counsel.

In the analysis, the Author noted that some local governments are conducting internal audits under the direction of a General Counsel. By doing so, those reports are being classified as attorney-client privileged communications, which limits public disclosure of the audit reports. Neither the red book nor the yellow book prohibits this practice. This bill augments the auditing standards that apply to local governments’ internal audits to prevent local officials from using the attorney-client privilege to conceal audit information from members of the public.

The measure has cleared the process but was rejected and quickly vetoed by the Governor. In his veto message, the Governor said “This bill prohibits the general counsel of a city, county, or district from having direct oversight of internal audit staff. I commend the author's objective to secure the public's access to local agency audits. However, there may be legitimate reasons for local agencies to have their general counsels oversee certain audits and I believe it is most appropriate to allow local governments to determine the level of oversight that best meets their unique civic needs.”

(Final Status: Vetoed)

Senate Bill 602 (Monning) **Position: None**

This bill will allow the CEA to create a new voluntary financing tool for homeowners to mitigate and retrofit their homes. This bill would allow the CEA to provide 100% financing for residential mitigation projects that meet approved engineering guidelines. The loan would become a lien on the property and allow homeowners to pay for the costs in installments in the form of debt service payments collected through existing property tax collection mechanisms. The lien would “run with the land,” staying with the property upon sale. Up-front installation costs can deter property owners from making seismic safety improvements, and current law only authorizes “cities,” “municipalities,” and “public agencies” to establish voluntary assessment programs to finance seismic mitigation. Furthermore, homeowners in cities without earthquake mitigation assessment programs lack access to financing tools that would allow them to make seismic retrofits to their homes. This bill will provide those property owners with the opportunity to take advantage of this type of financing.

The Assembly Local Government Committee reached out to us to determine if the Association has any issues with this policy. Specifically, she was concerned that the measure may trigger heavy workloads for local governments.

She has also informed us that she received late opposition from numerous groups, including the Realtors.

Due to the late opposition to the bill, the Author chose to park the measure for the year and work on unintended consequences.

(Status: Held in Appropriations)

Statistics

The Governor had until October 11, 2015 to sign or veto bills.

The final outcome after a month of bill signings was 808 measures signed into law against 133 measures vetoed. The 14% veto rate is rather high for this Governor.

The underlying tone of many of his veto messages carried the message that the Governor was disappointed that several of his highest priorities for the year were derailed. He had spent political capital, time and effort on a transportation special session to establish a tax source for repairs; and he put his full weight behind a special session on healthcare. In both of these cases, the new emergence of a moderate Democratic caucus that was willing to divert from the party line and vote independently from leadership recommendations. These democrats represented the votes needed to move these priorities along, and they flexed their muscles to make their presence known to the Governor and the leadership in each House.

It will be interesting to see how this new dynamic evolves and whether the Administration can determine which buttons to push in order to appease this new group and move priorities through the floor.